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SENATE BILL 558

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Mark Boitano

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING FOR A CLASS SIZE WAIVER
UNDER CERTAIN CIRCUMSTANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-10A-20 NMSA 1978 (being Laws 1986,
Chapter 33, Section 3, as amended) is amended to read:

"22-10A-20. STAFFING PATTERNS--CLASS LOAD--TEACHING
LOAD.--

A. Except as otherwise provided in this section,
the individual class load for elementary school teachers shall
not exceed twenty students for kindergarten; provided that any
teacher in kindergarten with a class load of fifteen to twenty
students shall be entitled to the assistance of an educational
assistant.

B. Except as otherwise provided in this section,

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1 the average class load for elementary school teachers at an
2 individual school shall not exceed twenty-two students when
3 averaged among grades one, two and three; provided that any
4 teacher in grade one with a class load of twenty-one or more
5 shall be entitled to the full-time assistance of an educational
6 assistant.

7 C. Except as otherwise provided in this section,
8 the average class load for an elementary school teacher at an
9 individual school shall not exceed twenty-four students when
10 averaged among grades four, five and six.

11 D. Except as otherwise provided in this section,
12 the daily teaching load per teacher for grades seven through
13 twelve shall not exceed one hundred sixty students, except the
14 daily teaching load for teachers of required English courses in
15 grades seven and eight shall not exceed one hundred thirty-five
16 with a maximum of twenty-seven students per class and the daily
17 teaching load for teachers of required English courses in
18 grades nine through twelve shall not exceed one hundred fifty
19 students with a maximum of thirty students per class.

20 E. Students receiving special education services
21 integrated into a regular classroom for any part of the day
22 shall be counted in the calculation of class load averages.
23 Students receiving special education services not integrated
24 into the regular classroom shall not be counted in the
25 calculation of class load averages. Only classroom teachers

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1 charged with responsibility for the regular classroom
2 instructional program shall be counted in determining average
3 class loads. In elementary schools offering only one grade
4 level, average class loads may be calculated by averaging
5 appropriate grade levels between schools in the school
6 district.

7 F. Class load limits provided for in this section
8 do not apply to band or music classes or athletic electives.

9 G. A public school in a school district over
10 thirty-five thousand students may waive class size requirements
11 by no more than fifteen percent only if reorganizing its
12 teachers and classes to accommodate extra students will not be
13 educationally detrimental to the students. A class size waiver
14 pursuant to this subsection requires the approval of the school
15 principal, the affected teacher and at least seventy-five
16 percent of the parents of children in the class for which a
17 waiver is being sought. The school principal shall notify the
18 local superintendent of an approved waiver pursuant to this
19 subsection. In determining the maximum class size, when the
20 percentage is not a whole number, the number shall be rounded
21 down to the next whole number.

22 [~~G.~~] H. In addition to the waiver provided in
23 Subsection G of this section, the [state superintendent]
24 secretary may waive the individual school class load
25 requirements established in this section. Waivers shall be

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1 applied for annually and a waiver shall not be granted for more
2 than two consecutive years. Waivers may only be granted if a
3 school district demonstrates that:

4 (1) no portable classrooms are available;

5 (2) no other available sources of funding
6 exist to meet its need for additional classrooms;

7 (3) the school district is planning
8 alternatives to increase building capacity for implementation
9 within one year; and

10 (4) the parents of all children affected by
11 the waiver have been notified in writing:

12 (a) of the statutory class load
13 requirements;

14 (b) that the school district has made a
15 decision to deviate from these class load requirements; and

16 (c) of the school district plan to
17 achieve compliance with the class load requirements.

18 [~~H.~~] I. If a waiver is granted pursuant to
19 Subsection [~~G~~] H of this section to an individual school, the
20 average class load for elementary school teachers at that
21 school shall not exceed twenty students in grade one and shall
22 not exceed twenty-five students when averaged among grades two,
23 three, four, five and six.

24 [~~F.~~] J. Each school district shall report to the
25 department the size and composition of classes subsequent to

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1 the fortieth day and the December 1 count. Failure to meet
2 class load requirements within two years shall be justification
3 for the disapproval of the school district's budget by the
4 [~~state superintendent~~] department.

5 [~~J.~~] K. The department shall report to the
6 legislative education study committee by November 30 of each
7 year regarding each school district's ability to meet class
8 load requirements imposed by law.

9 [~~K.~~] L. Notwithstanding the provisions of
10 Subsection [~~G.~~] H of this section, the [~~state board~~] secretary
11 may waive the individual class load and teaching load
12 requirements established in this section upon a demonstration
13 of a viable alternative curricular plan and a finding by the
14 [~~state board~~] secretary that the plan is in the best interest
15 of the school district and that, on an annual basis, the plan
16 has been presented to and is supported by the affected teaching
17 staff. The department shall evaluate the impact of each
18 alternative curricular plan annually. Annual reports shall be
19 made to the legislative education study committee.

20 [~~L.~~] M. Teachers shall not be required to perform
21 noninstructional duties except in emergency situations as
22 defined by the [~~state board~~] department. For purposes of this
23 subsection, "noninstructional duties" means noon hall duty,
24 noon ground duty and noon cafeteria duty."